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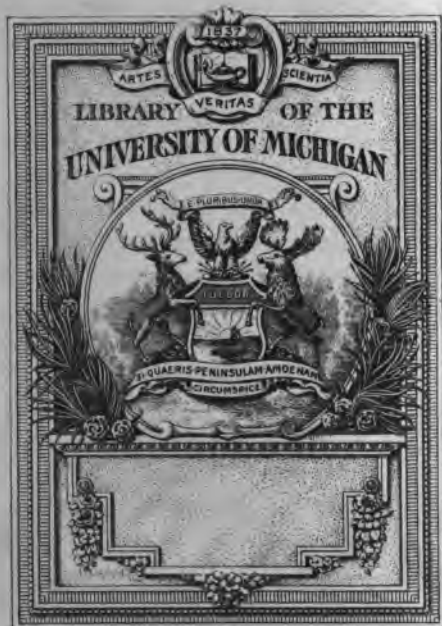
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Adams, C.F.

Constitutional Ethics  
and of Secession and  
"War is Hell" Two Speeches

University of Michigan



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THE CONSTITUTIONAL  
ETHICS OF SECESSION

AND

“WAR IS HELL”

TWO SPEECHES OF  
CHARLES FRANCIS ADAMS

DELIVERED RESPECTIVELY  
AT CHARLESTON, S. C.  
DECEMBER 23, 1860,  
AND  
AT NEW YORK  
JANUARY 30, 1861.



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## THE CONSTITUTIONAL ETHICS OF SECESSION<sup>1</sup>

“ANAKH”

MR. PRESIDENT, and Ladies and Gentlemen of the  
New England Society of Charleston:—

Though this is a Yule-tide festival, being, by descent at least, a Puritan, I shall, after the fashion of the Puritans, open with a text, thence proceeding to “improve the occasion.” If you will turn to the twelfth chapter of Exodus, you will there find it written:—

“And this day shall be unto you for a memorial; and ye shall keep it a feast to the Lord throughout your generations; ye shall keep it a feast by an ordinance for ever.

“And it shall come to pass, when your children shall say unto you, What mean ye by this service?

“That ye shall say, It is the sacrifice of the Lord’s passover, who passed over the houses of the children of Israel in Egypt, when he smote the Egyptians.

“Now the sojourning of the children of Israel, who dwelt in Egypt, was four hundred and thirty years.

“And it came to pass at the end of the four hun-

<sup>1</sup> Speech at the dinner of the New England Society of Charleston, S. C., at the Charleston Hotel, on the evening of December 22, 1902. The text of this speech was delivered in full. The notes and illustrations are here appended.



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dred and thirty years, even the selfsame day it came to pass, that all the hosts of the Lord went out from the land of Egypt.”

As it was of old with the children of Israel, even so is it now with us of New England ; and when our children say unto us, What mean you by this service? we say unto them, It is the feast of the passover, when our fathers, having passed over the ocean, set foot in the promised land. A day of retrospection, it is a day also of reckoning, — a day meet for reflection. I propose so to utilize it this evening. Discussing grave topics gravely, I crave patience.

Two hundred and sixty-four years ago a schism, since become historic, occurred in the infant colony of Massachusetts Bay. It was rent in twain ; and so, as the Father of Massachusetts has recorded, “ finding, upon consultation, that two so opposite parties could not continue in the same body without apparent hazard of ruin to the whole, [those in the majority] agreed to send away some of the principal.”<sup>1</sup> And again, “ by the example of Lot in Abraham’s family, and after Hagar and Ishmael, he [Governor John Winthrop] saw they must be sent away.”<sup>2</sup> Those thus proscribed went accordingly into banishment ; and so, the year following, Rhode Island came into existence. This was in 1638 ; and, in 1640, the chief of those thus thrust into exile having occasion to write to the magistrate who had enforced the order of banishment, said, with a pathos reached only by words of simplicity, “ What myself and wife and family did endure in that removal, I wish neither you nor yours may ever be put

<sup>1</sup> Winthrop’s *History* (Savage’s ed.), vol. i. p. \*245.

<sup>2</sup> *Ib.*, vol. i. p. \*250.

unto;"<sup>1</sup> but again, and at almost the same time, writing from his new home in Newport, Governor William Coddington expressed to Governor John Winthrop the approval he felt "of a speech of one of note amongst you, that we were in a heate and chafed, and were all of us to blame; in our strife we had forgotten we were brethren."<sup>2</sup>

The expression is apt; the admission appropriate. More, much more than two years ago, — longer ago than the lifetime of a generation, — Massachusetts and South Carolina got in "a heate and chafed" one with the other, and fell into bitter strife. Forgetting that we were brethren, were we also "all of us to blame"?

Not long since, circumstances led me into a dispassionate reëxamination of the great issues over which the country divided in the mid-years of the last century. As a result thereof, I said in a certain Phi Beta Kappa Society address<sup>3</sup> delivered in June, at Chicago, copies of which some of you may have seen, — "legally and technically, — not morally, again let me say, and wholly irrespective of humanitarian considerations, — to which side did the weight of argument incline during the great debate which culminated in our Civil War? . . . If we accept the judgment of some of the more modern students and investigators of history, — either wholly unprejudiced or with a distinct Union bias, — it would seem as if the weight of argument

<sup>1</sup> "The Winthrop Papers," IV., *Massachusetts Historical Society Collection*, vol. vi. p. 314.

<sup>2</sup> *Ib.*, p. 317.

<sup>3</sup> This address, entitled "Shall Cromwell Have a Statue?" is contained in the second, and revised, edition of the volume, *Lee at Appomattox, and Other Papers*. Houghton, Mifflin & Co.: Boston. September, 1902.

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falls into what I will term the Confederate scale." And I then referred to some recent utterances of Professor Goldwin Smith and Mr. Henry Cabot Lodge.<sup>1</sup> Incited by those utterances to yet further inquiry of my own, the result thereof was, to me at least, curious; — not only curious, but, I may add, highly suggestive of moralizing.

The question is now one purely historic; but on that question of the weight of authority and argument as respects the right of secession, I found a divergence of opinion existing to-day so great as hardly to admit of reconciliation. On the one side it was — I am told still is<sup>2</sup> — taught as an article of political faith, that not only was the constitutional right of peaceable secession at will plain, manifest and expressly reserved, but that, until a comparatively recent period, it had never been even disputed. In the words of one writer of authority, — "Through a period of many years, the right of secession was not seriously questioned in any quarter except under the exigencies of party politics."<sup>3</sup>

<sup>1</sup> See D. H. Chamberlain: "Historical Conception of the Constitution," *Proceedings of the Massachusetts Historical Society*, Second Series, vol. xvi. pp. 151-153.

<sup>2</sup> See an interesting communication from Professor William E. Dodd of Randolph-Macon College, Va., in the *New York Nation* of August 7, 1902. In this communication, which subsequently occasioned much newspaper discussion, Professor Dodd said: — "This public opinion [of Southern men who were either participants in the great Civil War or whose fathers were] positively demands that teachers of history, both in the colleges and high schools, shall subscribe unreservedly to two trite oaths: (1) That the South was altogether right in seceding from the Union in 1861; and (2) that the war was not waged about the negro."

<sup>3</sup> J. William Jones, chaplain-general of the United Confederate Veterans, on the *Study of American History in Southern Schools and Colleges*. "The South in History," *Baltimore Sun*, August 10, 1902. See, also, oration by Hon. John W. Daniel on the *Life, Services, and Character of Jefferson Davis*, January 25, 1890, pp. 33-35.

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On the other hand, in the section of the country where my lot has been cast, this alleged heresy is sternly denounced, and those propounding it are challenged to their proofs. With equal positiveness it is claimed that, from the time of the adoption of the Constitution down to a comparatively recent day, "there was not a man in the country who thought or claimed that the new system was anything but a perpetual Union."<sup>1</sup>

Which contention, I asked, is right? And, separating myself from my present environment, I tried to go back to the past, and to see things, not as they now are, but as they were; as they appeared to those of three generations gone, — to the fathers, in short, of our grandfathers. It was a groping after forgotten facts and conditions in places dark and unfamiliar. The results reached, also, were, I confess, very open to question. But while more or less curious, as well as unexpected, they were such as a Massachusetts man, forty years ago at this time in arms for the Union, need not hesitate to set forth in South Carolina, where the right of secession, no longer proclaimed as a theory, was first resorted to as a fact.

It was Alexander Pope, hard on two centuries ago (1733), who wrote: —

"Manners with fortunes, humors turn with climes,  
Tenets with books, and principles with times."

And, again, Tennyson in our day has said; —

"The drift of the Maker is dark, an Isis hid by the veil.  
Who knows the ways of the world, how God will bring them about?  
Our planet is one, the suns are many, the world is wide.  
. . . . .

<sup>1</sup> D. H. Chamberlain: *Proceedings of the Massachusetts Historical Society*, Second Series, vol. xvi. pp. 151-173.

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We are puppets, Man in his pride, and Beauty fair in her flower ;  
Do we move ourselves, or are moved by an unseen hand at a game  
That pushes us off from the board, and others ever succeed ? ”

As I delved into the record, I concluded that humors turned quite as much with climes in the nineteenth century as they did in the eighteenth ; and that, in the later as in the earlier period, principles, so called, bore a very close relation to times. We, too, had also been “puppets” moved by “an unseen hand at a game.” As, in short, I pursued my inquiries, the individual became more and more minimized ; chance and predestination cut larger figures ; and at last it all assumed the form of a great fatalistic process, from which the unexpected alone was sure to result.

But to come to the record. For more than a century, lawyers, jurists and publicists — journalists, politicians and statesmen — have been arguing over the Federal Constitution. Sovereignty carries with it allegiance. Wherein rested sovereignty ? Was it in the State or in the Nation ? Was the United States a unit, — an indissoluble union of indestructible States,<sup>1</sup> — or was it a mere confederacy of nations, held together solely by a compact, upon possible infringements of which each one, so far as it was concerned, was a final judge ? Each postulate has been maintained from the beginning ; for that matter, is maintained still. Each has been argued out with great legal acumen and much metaphysical skill to results wholly satisfactory to those that way inclined ; and yet absolutely illogical

<sup>1</sup> “An indestructible Union composed of indestructible States.” (Chief Justice Chase, *Texas v. White*, 7 Wallace, 725.) “An indissoluble Union of imperishable States.” (Bancroft: *History of the Formation of the Constitution*, vol. ii. p. 334.)

and absurd to the faithful of the other side. It was the old case of the shield of the silver and golden sides. That the two sides were irreconcilable made no difference. Be it silver or gold, the thing to him who had eyes to see was in his sight silver or gold, as the case might be. And yet, as I pursued my inquiries, I gradually felt assured, not that the thing was in this case either silver or gold, but that it was both silver and gold. Everybody, in short, was right; no one wrong. Conditions changed, and with them not only appearances but principles, and even facts. Simply, the inevitable, and yet the unexpected, had occurred.

This I propose for my thesis.

In dealing with these questions, the lawyers, I find, start always with the assumption that, at a given time in the past, to wit, at or about 1788, there was in the thirteen States, then soon to become the present United States, a definite consensus of public opinion<sup>x</sup> which found expression in a written compact, since known as the Federal Constitution. But was this really the case? Public opinion, so called, is a very elusive and uncertain something, signifying things different at different times and in different places. Especially was this the case in the States of the old Federation. So far as I can ascertain, every State of the Federation became a member of the Union with mental reservations, often unexpressed, growing out of local traditions and interests, in the full and correct understanding of which the action of each must be studied.<sup>1</sup> Dissatisfied with the past and doubtful of

<sup>1</sup> "Every State has some objection to the present form [the Constitution of 1788, then under discussion], and these objections are directed to different points. That which is most pleasing to one is obnoxious to another, and so *vice versa*." (George Washington to



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the future, jealous of liberties, to the last degree provincial and suspicious of all external rule, intensely common-sensed, but illogical and alive with local prejudice, the one thing our ancestry united in most apprehending was a centralized government. From New Hampshire to Georgia, such a government was associated with the idea of a foreign régime. The people clung to the local autonomy, — the Sovereignty of the State. With this fundamental fact the framers of the Constitution had to deal. And they did so, in my opinion, with consummate skill. Accepting things as they were, they went as far as they could, leaving the outcome to time and the process of natural growth. The immediate result was a nation founded on a metaphysical abstraction, — a condition of unstable equilibrium. It could not endure. But the great mass of people composing a community — Lincoln's "plain people" — are not metaphysicians, and do not philosophize. Loving to argue, in argument they are not logical. Even in Virginia they were not then all abstractionists; and while, in a vague way, the Virginians wanted to become part of one people, they never proposed to cease to be Virginians, or to permit Virginia to become other than a Sovereign State. It was so with the others.

Confronted with this fact, what did the framers of the Constitution propose? Taking refuge in metaphysics, they proposed a contradiction in terms, — a divided sovereignty. Sovereignty, it was argued, was in the People. But who are the People? The People of the United States, it was replied, are the aggregate

Bushrod Washington, November 10, 1787: *Writings of Washington*, Ford ed. (1891), vol. xi. p. 184.)



of those inhabiting the particular States. Then they began to apportion sovereignty, oblivious of the fact that sovereignty does not admit of apportionment.—Pursuing some vague analogy of the solar system, and conceiving of States as planets in their orbits, the People of the particular States assigned to the Nation a modicum of sovereignty, conferred another modicum on the State governments, and reserved whatever remained to themselves. Now it is written, “No man can serve two masters: for either he will hate the one and love the other; or else he will hold to the one and despise the other.” The everlasting truth of this precept in the fulness of time held good in our case. From the moment the fathers sought to divide the indivisible, the result was written on the wall. It was a mere question of years and of might. Sovereignty had to be somewhere, and accepted as being there.

Thus, intentionally by some of the most far-seeing, unintentionally by others anxious to effect only a more perfect union, a pious fraud was in 1788 perpetrated on the average American, and his feet were directed into a path which inevitably led him to the goal he least designed for his journey's end.<sup>1</sup>

<sup>1</sup> “The convention framed a constitution by the adoption of which thirteen peoples, imagining themselves still independent and sovereign, really acknowledge themselves to be but parts of a single political whole. But they made this acknowledgment unconsciously. They continued to think of themselves as sovereigns who indeed permitted an agent to exercise some of their functions for them, but who had not abdicated their thrones. If the constitution had contained a definite statement of the actual fact; if it had said that to adopt it was to acknowledge the sovereignty of the one American people, no part of which could sever its connections from the rest without the consent of the whole, it would probably have been rejected by every State in the Union.” (J. P. Gordy: *Political Parties in the United States* (ed. 1900), vol. i. p. 79.) “To the familiar state governments



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“Through the Valley of Love I went,  
In the loveliest spot to abide,  
And just on the verge where I pitched my tent,  
I found Hate dwelling beside.”

The bond was deceptive; for, on this vital point of ultimate sovereignty, — To whom was allegiance due in cases of direct issue and last resort? — on this crucial point of points the Constitution was not self-explanatory, — explicit. Nor was it meant to be. The framers — that is, the more astute, practical and far-seeing — went as far as they dared. The difficulty — the contradiction involved — was explicitly, and again and again, pointed out. It is impossible to believe that a man so intellectually acute as Hamilton failed to see the inherent weakness of the plan proposed. He did see it; but, under existing conditions, it was, from his point of view, the best attainable. Madison, though a man of distinctly constructive mind, was also an abstractionist. He seems really to have had faith in the principle of an unstable political equilibrium. At a later day that faith was put to a rude test; and in 1814, while the Hartford Convention was in session, the scales fell from his eyes. He had all he wanted of a divided sovereignty in practical operation. Lawyers, meanwhile, have since argued on this point; philosophers and publicists have refined over it; historians have analyzed the so-called original materials of history; and men with arms in their hands have fought the thing to a final result. Never-

which had so long possessed their love and allegiance, [the plan devised and recommended by the Federal Convention of 1787] was superadding a new and untried government, which it was feared would swallow up the States and everywhere extinguish local independence.” (Fiske: *The Critical Period of American History*, p. 237.)

theless, the real facts in the case seem quite clear, and altogether otherwise than they are usually assumed to have been.

When the Federal Constitution was framed and adopted, — an indissoluble Union of indestructible States, — what was the law of treason; to what or to whom, in case of final issue, did the average citizen owe allegiance? Was it to the Union or to his State? As a practical question, seeing things as they then were, — sweeping aside all incontrovertible legal arguments and metaphysical disquisitions, — I do not think the answer admits of doubt. If put in 1788, or indeed at any time anterior to 1825, the immediate reply of nine men out of ten in the Northern States, and of ninety-nine out of a hundred in the Southern States, would have been that, as between the Union and the State, ultimate allegiance was due to the State.

A recurrence to the elementary principles of human nature tells us that this would have been so, and could have been no otherwise. We have all heard of a famous, much-quoted remark of Mr. Gladstone to the effect that the Constitution of the United States was “the most wonderful work ever struck off at a given time by the brain and purpose of man.” This may or may not be so. I propose neither to affirm nor to controvert it, here and now; but, however wonderful it may actually have been, it would have been more than wonderful, it would have been distinctly miraculous, had it on the instant so wrought with men as at once to transfer the allegiance and affection of those composing thirteen distinct communities from their old traditional governments to one newly improvised. The thing hardly admits of discussion. The change

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was political and far-reaching; but it produced no immediate effect on the feelings of the people. As well say that the union of the crowns of Scotland and England immediately broke up Scotch clanship. It did break it up; but the process was continuous through one hundred and fifty years. The union became an organic and legalized fact in 1707; but, as the events of forty years later showed, the consequences of the union no Campbell nor Cameron foresaw. So with us in 1788, allegiance to the State had only a few years before proved stronger than allegiance to the Crown or to the Confederation, and no one then was "foolish enough to suppose that" the executive of the Union "would dare enforce a law against the wishes of a sovereign and independent State;"<sup>1</sup> the very idea was deemed "preposterous." "That this new government, this upstart of yesterday, had the power to impose its edicts on unwilling States was a political solecism to which they could in no wise assent."<sup>2</sup>

I am sure that all this was so in 1788. I am very confident it remained so until 1815. I fully believe it was so, though in less degree, until at least 1830. A generation of men born in the Union had then grown up, supplanting the generations born and brought up in the States. Steam and electricity had not yet begun to exert their cementing influence; but time, sentiment, tradition, — more, and most of all, the intense feeling excited North and South by our naval successes under the national flag in the War of

<sup>1</sup> "Is it to be expected," wrote Senator Maclay of Pennsylvania, in his Journal for March 22, 1790, "that a federal law passed directly against the sense of a whole State will ever be executed in that State?" (*Journal of William Maclay* (1890), p. 220.)

<sup>2</sup> Gordy: *Political Parties in the United States*, vol. i. pp. 203, 341.

1812, — had in 1815 in large part done their work. The sense of ultimate allegiance was surely, though slowly as insensibly, shifting from the particular and gravitating to the general, — from the State to the Union. It was not a question of law, or of the intent of the fathers, or the true construction of a written instrument; for, on that vital point, the Constitution was silent, — wisely, and, as I hold it, intentionally silent. But, though through, and because of, that silence there may have been ground for a difference of opinion as to the right of secession, there is no possible room for doubt, whether doubt legal or doubt historical, on the question of a divided sovereignty.<sup>1</sup> That is part of the record. Only strictly limited and carefully enumerated powers were conceded by the States to the Nation; the rest were reserved. Even, therefore, though Mr. Lodge and Professor Smith, and the other authorities I have referred to, may be totally wrong on the question of the right of withdrawal from the Union, and the views held in regard to such right of withdrawal at the time the Constitution was adopted,<sup>2</sup> — and I wish here distinctly to say that, in

<sup>1</sup> "Every State in the Union, in every instance where its sovereignty has not been delegated to the United States, is considered to be as completely sovereign as the United States are in respect to the powers surrendered. The United States are sovereign as to all the powers of government actually surrendered; each State in the Union is sovereign as to all the powers reserved." (Mr. Justice Iredell, of the United States Supreme Court, in 1793 (2 Dallas, 419).) Judge Iredell was a member of the Convention of 1787, which framed the Constitution, and he advocated its adoption in the North Carolina Convention.

<sup>2</sup> As respects contemporaneous opinion there can be no authority higher than that of Madison, cited by Mr. Chamberlain, *Proceedings of the Massachusetts Historical Society*, Second Series, vol. xvi. p. 167. On this point Fiske says: — "The decisive struggle was over the question

my opinion, they were wrong, and a somewhat careful examination of the record has disclosed to me no evidence on which to rest their somewhat sweeping assertions, — though, I say, Mr. Lodge, and Professor Smith may be wrong, yet whether they were wrong or right does not affect the proposition that, from 1788 to 1861, in case of direct and insoluble issue between sovereign State and sovereign Nation, every man was not only free to decide, but had to decide the question of ultimate allegiance for himself; and whichever way he decided, he was right.<sup>1</sup> The Con-

whether New York could ratify the Constitution conditionally, reserving to herself the right to withdraw from the Union in case the amendments upon which she had set her heart should not be adopted. Upon this point Hamilton reinforced himself with the advice of Madison, who had just returned to New York. Could a State once adopt the Constitution, and then withdraw from the Union if not satisfied? Madison's reply was prompt and decisive. No, such a thing could never be done. A State which had once ratified was in the federal bond forever. The Constitution could not provide for nor contemplate its own overthrow. There could be no such thing as a constitutional right of secession." (*The Critical Period of American History*, 1783-1789, pp. 343-344.)

<sup>1</sup> Much has been written and said, and still more declaimed, as to the peculiar and exceptional allegiance due, in case of attempted secession, to the national government on the part of the graduates of the Military Academy at West Point. It is, however, a noticeable fact that anterior to 1840 the doctrine of the right of secession seems to have been inculcated at West Point as an admitted principle of Constitutional Law. Story's *Commentaries* was first published in 1833. Prior to its appearance the standard text-book on the subject was Rawle's *View of the Constitution*. This was published in Philadelphia in 1825. William Rawle, its author, was an eminent Philadelphia lawyer. A man of twenty-nine at the time the Constitution was adopted, and already in active professional life, in 1792 he was offered a judicial position by Washington. Subsequently he was for many years Chancellor of the Law Association of Philadelphia, and principal author of the revised code of Pennsylvania. He stood in the foremost rank of the legal luminaries of the first third of the century. His instincts, sympathies and connections were all national.

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stitution gave him two masters. Both he could not serve; and the average man decided which to serve in

Prior to 1840, his *View* was the text-book in use at West Point. In this treatise the principle involved was thus set forth:—

“If a faction should attempt to subvert the government of a State for the purpose of destroying its republican form, the paternal power of the Union could thus be called forth to subdue it. Yet it is not to be understood that its interposition would be justifiable if the people of a State should determine to retire from the Union, whether they adopted another or retained the same form of government (p. 289). . . .

“The States, then, may wholly withdraw from the Union; but while they continue they must retain the character of representative republics” (p. 290).

“The secession of a State from the Union depends on the will of the people of such State. The people alone, as we have already seen, hold the power to alter their constitution. The Constitution of the United States is, to a certain extent, incorporated into the constitutions of the several States by the act of the people. The State legislatures have only to perform certain organical operations in respect to it. To withdraw from the Union comes not within the general scope of their delegated authority. There must be an express provision to that effect inserted in the State constitutions. This is not at present the case with any of them, and it would perhaps be impolitic to confide it to them. A matter so momentous ought not to be entrusted to those who would have it in their power to exercise it lightly and precipitately upon sudden dissatisfaction, or causeless jealousy, perhaps against the interests and the wishes of a majority of their constituents.

“But in any manner by which a secession is to take place, nothing is more certain than that the act should be deliberate, clear, and unequivocal. The perspicuity and solemnity of the original obligation require correspondent qualities in its dissolution. The powers of the general government cannot be defeated or impaired by an ambiguous or implied secession on the part of the State, although a secession may perhaps be conditional. The people of the State may have some reasons to complain in respect to acts of the general government; they may in such cases invest some of their own officers with the power of negotiation, and may declare an absolute secession in case of their failure. Still, however, the secession must in such case be distinctly and peremptorily declared to take place on that event; and in such case, as in the case of an unconditional secession, the previous ligament with the Union would be legitimately and fairly destroyed. But in either case the people is the only moving power” (pp. 295, 296).

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the light of sentiment, tradition and environment. Of this I feel as historically confident as I can feel of any fact not matter of absolute record or susceptible of demonstration.

I have already referred to the academic address I some months ago had occasion to deliver. In response to it I received quite a number of letters, one of which, bearing on this point, seemed very notable. It was from the president of an historic Virginia college, who himself bears an historic Virginia name. In the address alluded to I had said that, "however it may have been in 1788, in 1860 a nation had grown into existence." This I take to be indisputable. In no way denying the fact, my correspondent, quoting the words I have given, thus wrote: "But is it not true that this nationality was after all a Northern nationality? Did the South share in it to any extent? On the contrary, the confederate character of the Union was more strongly impressed upon the South in 1861 than in 1788. So that it may be more truly said that the Secessionists' recourse in 1861 was to peaceable separation, and not to the sword. If the North was really the only national part of the Union, and its national character reached out after the South, must not the responsibility for the use of the sword be visited upon the North, and not on the South? Both North and South started out from the same constitutional standpoint of secession; but, while the South adhered to the same idea, the North fused into a nation, which, in 1861, determined to conquer the other and conservative part. That the South had ever suffered *nationalization* in spirit or in fact, previous to 1861, I think your address clearly disproves."

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In some of the conclusions assumed in this extract from the letter of my Virginia correspondent, it is needless to say I do not concur. I do not, as I have said, believe in the right of secession as an original "constitutional standpoint" from which, in 1788, North and South started out. Neither do I believe that a "peaceable separation" was ever contemplated as a possibility by any one; least of all by those who took the lead in the Confederate movement of 1861. I do, however, believe, and the record moreover shows, that the essential basic principle of the Constitution was a divided sovereignty, and, in the contingency of a direct, insoluble issue, a consequently divided personal allegiance.

But, this premised, on the main issue — the essential point involved in the extract from his letter — the writer was, I think, right. Previous to 1861 the South did not undergo nationalization, to the same extent, in any event, as the North. And why did it not? Again, Tennyson's "unseen hand at a game"! — a game in which we are "puppets." But, after all, what is that "unseen hand"? And how did it manifest itself in our national life during the three fourths of a century between 1788 and 1861? That "unseen hand," theologically known as an "inscrutable providence," I take to be nothing more nor less than those material, social, industrial and political conditions, domestic and public, which, making up our environment, mould our destiny with no very great regard for our plans, our hopes, our traditions, or our aspirations. All of which is merely our nineteenth century agnostical way of putting the fifteenth century aphorism that "Man proposes, but God disposes." With a



political instinct which now seems marvellous, Madison, in the course of debate in the Constitutional Convention of 1787, casting a prophetic glance into futurity, said: "The great danger to our general government is, that the Southern and Northern interests of the continent are opposed to each other, not from their difference of size, but from climate, and principally from the effects of their having or not having slaves. Defensive power ought to be given, not between the large and small States, but between the Northern and Southern." And again, "The greatest danger is disunion of the States;" and, "It seems now well understood that the real difference of interests lies, not between the large and small, but between the Northern and Southern States." Based on this line of broad difference, the contest was "between the fear of the centripetal and the fear of the centrifugal force in the system." On the other side of the Atlantic, a shrewd observer and pioneer economist, profoundly opposed to the British policy during our War of Independence, had thus, shortly before, cast a horoscope of the American people: "The mutual antipathies and clashing interests of the Americans, their difference of governments, habitudes, and manners, indicate that they will have no centre of union and no common interest. They never can be united into one compact empire under any species of government whatever; a disunited people till the end of time, suspicious and distrustful of each other, they will be divided and subdivided into little commonwealths or principalities, according to natural boundaries, by great bays of the sea and by vast rivers, lakes, and ridges of mountains."<sup>1</sup>

<sup>1</sup> Josiah Tucker, Dean of Gloucester, quoted by Bancroft: *History of the Formation of the Constitution*, vol. i. p. 65.

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Into the details of the conflict over sovereignty which dragged along for seventy years, it is needless for me here to enter. A twice-told tale, I certainly have no new light to cast upon it; but, in freshly reviewing it, that aspect of it which has most impressed me is its resemblance to the classic. Throughout Fate, the inevitable, "the unseen hand," are everywhere now apparent, — destiny had to be fulfilled. In connection with the history of those momentous years, we read much of men; and, indeed, it is a galaxy of great names, — Washington, Hamilton, Jefferson, Marshall, Madison, Webster, Calhoun; but, as I went back to the deeper underlying influences, — the profound currents of thought and action which in the end worked results, — one and all those bearing even these names became Tennyson's "puppets" moved by the "unseen hand at the game." In this respect our story is suggestive of some cosmic theory, — the process by which suns and planets and satellites are evolved; and gradually it seems as if the individual man were able to affect the course of events and final results as respects the outcome of the one as much as he does of the other.<sup>1</sup> The elaborate legal arguments,

<sup>1</sup> This assertion, I am aware, is very open to dispute, and impossible of proof. The theory that men who, in history, appear to have given shape to their own times, and, by so doing, to subsequent times, did, after all, but represent, embody and bring to a head the tendencies of their age; which embodiment would have inevitably taken place through some other, if they had not been, — this theory of historic fatalism was first developed by Buckle in his *History of Civilization in England*, half a century ago. There is certainly an element of truth in it, inasmuch as no man can be really great except in so far as he reads his time aright, "translating its dumb, inarticulate cry into some articulate language, divining its wants and satisfying them, seeing and laying hold of the helps which the time affords to carry out the work which the time requires." On the other hand, it is impossi-

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the metaphysical theories and historical disquisitions, — even the rights and wrongs of the case, — became quite immaterial, and altogether insignificant. In obedience to underlying influences, and in conformity with natural laws, a system is crystallizing. Discordant elements blend ; assimilation, willing or reluctant, goes on.

See how the sides change, — how rapidly “ humors turn with climes ; ” while, as to the principles involved, the mutation is only less complete than sincere. Nationality, as we see it to-day, had its birth in Virginia ; and the Sovereignty of the Union assumed shape through the agency of Washington and was slowly perfected by Marshall, both more or less

ble to ignore the influence of exceptional individuality on the course of events, as evidenced by innumerable instances from Moses to Bismarck. In the case of the development of American nationality because of the adoption, and under the operation, of the Federal Constitution, the two possible individual exceptions to the general rule would seem to be Washington and Marshall. But for the respect in which Washington was held, and the general recognition of his great attributes of character, it is very questionable whether the Constitution of 1788 would have been adopted, or could have been set in successful operation. But for the solid judicial renderings of Marshall, stretching through a long period of years, our system of constitutional law would hardly have assumed consistency and shape. Yet, on the other hand, the American community made both Washington and Marshall possible. They were the natural outcome of their environment. The producing power and the thing produced had to be in harmony, and act and react on each other. While the United States that now is would almost certainly have been something quite other but for the presence and influence of Washington and Marshall as factors in the solution of the problem, Washington and Marshall would have failed to produce their results had they not been in complete and happy accord with the community and conditions in which they lived and worked. As to the others named, there is no sufficient reason to doubt that the work done and the influence exerted by them would have been done or exerted by others had they not come forward.

consciously responding to a natural movement, and working in harmony with it. Next, Virginia and her offspring Kentucky are passing the Resolves of 1798, and arraying themselves under the standard of decentralization. The government then passes into the hands of the protestants ; and, almost at once, again in response to an underlying, unseen influence too strong to resist, the process of a more complete crystallization enters on a new phase ; and, as it does so, catholic suddenly becomes protestant, and while Federalist New England formally pronounces the Union at an end, Jeffersonian Virginia supplies fresh aliment to nationality.

Meanwhile, the "unseen hand" is again at work and the "puppets" duly respond. They thought, and we once thought, they were free agents. Not at all. In the light of development, it is clear to us now that they merely went through their motions in obedience to influences of the mere existence of which they were at most but vaguely conscious. The drama was drawing insensibly to a crisis ; the forces were arraying themselves in opposing ranks on the lines forecast by Madison in 1787. With much confidence I assert, in its fundamentals there was no right or wrong about it ; it was an inevitable, irrepressible conflict, — the question of sovereignty was to be decided, and either side could offer good ground, historical and legal, for any attitude taken in regard to it. That shield did actually have a silver as well as a golden side.

Historically speaking, from the close of our second War of Independence, — commonly known as that of 1812, — the ebb and flow of the great currents of influence had set in new and definite channels. Grad-

ually they assumed irresistible force therein. Side by side two civilizations — a Chang and Eng — were developing. North of the Potomac and the Ohio a community was taking shape the whole tendency of which was national. Very fluid in its elements, commercial and manufacturing in its diversified industries, it was largely composed of Europeans or their descendants, who, knowing little of states, cared nothing for state sovereignty, which, indeed, like the Unknown God to the Greeks, was to them foolishness. This vast, discordant migration the railroad, the common school, and the newspaper were rapidly merging, coalescing, and fusing into a harmonious whole. Naturally it found a mouthpiece; and that mouthpiece preached union. It was not exactly a consistent utterance; for, less than a score of years before, the same voice had been loud and emphatic in behalf of State Sovereignty.<sup>1</sup>

<sup>1</sup> In a speech on the Conscription Bill, made in the House of Representatives at Washington, December 9, 1814, Mr. Webster, then in Congress from New Hampshire, thus expressed himself: —

“In my opinion [the law under consideration for compulsory army and military service] ought not to be carried into effect. The operation of measures thus unconstitutional and illegal ought to be prevented, by a resort to other measures which are both constitutional and legal. It will be the solemn duty of the State Governments to protect their own authority over their own Militia, and to interpose between their citizens and arbitrary power. These are among the objects for which the State Governments exist; and their highest obligations bind them to the preservation of their own rights and the liberties of their people. I express these sentiments here, Sir, because I shall express them to my constituents. Both they and myself live under a Constitution which teaches us, that ‘the doctrine of non-resistance against arbitrary power and oppression is absurd, slavish, and destructive of the good and happiness of mankind.’ With the same earnestness with which I now exhort you to forbear from these measures, I shall exhort them to exercise their unquestionable right of providing for the security of their own liberties.” (C. H. Van Tyne: *The Letters of Daniel Webster*, p. 67.)

This speech, delivered in the National House of Representatives

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So much for Chang, north of the Potomac and the Ohio ; but with Eng, south of those streams, it was

during the very gloomiest period of the War of 1812-15, four months after the battle of Bladensburg and the capture of Washington, and one month before the defeat of the British at New Orleans, has only recently been published. In language slightly varied, it was a repetition of the words of Governor Jonathan Trumbull, addressed to the Legislature of Connecticut at the opening of its special session, February 23, 1809 : — " Whenever our national legislature is led to overleap the prescribed bounds of their constitutional powers, on the State legislatures, in great emergencies, devolves the arduous task — it is their right — it becomes their duty, to interpose their protecting shield between the right and liberty of the people, and the assumed power of the General Government." Again, Mr. Webster did but voice, in the extract above quoted, the full spirit of the famous Hartford Convention, which began its session six days after the delivery of the speech. The following was among the resolutions there passed, following closely, in time of active foreign war, Madison's own language in draughting the Virginia Resolutions of 1798: — " The mode and the energy of the opposition should always conform to the nature of the violation, the intention of its authors, the extent of the injury inflicted, the determination manifested to persist in it, and the danger of delay. But in cases of deliberate, dangerous, and palpable infractions of the Constitution, affecting the sovereignty of a State and liberties of the people, it is not only the right but the duty of such a State to interpose its authority for their protection in the manner best calculated to secure that end. When emergencies occur which are either beyond the reach of the judicial tribunals, or too pressing to admit of the delay incident to their forms, States which have no common umpire must be their own judges, and execute their own decisions."

Mr. Webster, in his *Reply* to Hayne, said : — " I do not hold that the Hartford Convention was pardonable, even to the extent of the gentleman's admission, if its objects were really such as have been imputed to it." It is somewhat curious to consider what would have been the attitude of the Massachusetts Senator if, after uttering these words, the Senator from South Carolina had been able to confront him with his speech of fifteen years previous in the other hall of the Capitol. But —

" Manners with fortunes, humors turn with climes,  
Tenets with books, and principles with times."

Certainly, the gentlemen who participated in the Hartford Convention at least gave proof of the possession on their part of a redeeming sense of humor. It was in this respect an undeniable master-stroke on their

altogether otherwise. Under the influence of climate, soil, and a system of forced African labor, the Southern States irresistibly reverted to the patriarchal conditions, becoming more and more agricultural; and, as is always the case with agricultural races and patriarchal communities, they clung ever more closely to their traditions and local institutions. Then it was that Calhoun, the most rigid of logicians, in obedience to an irresistible influence of the presence and power of which he was unconscious, — Calhoun, the unionist of the War of 1812 and protectionist of 1816, turned to the Constitution; he began that “more diligent and careful scrutiny into its provisions, in order to ascertain fully the nature and character of our political system.” Needless to say, he there found what he was in search of.<sup>1</sup> But a similar scrutiny was at

part to commend to the lips of the fourth President, amid the trials of the War of 1812–15, the identical chalice which he himself had compounded sixteen years before for the lips of the second President. The, for him, fortunate coincidence of the successful negotiation of the Treaty of Ghent alone saved President Madison from a practical exemplification of the teachings of James Madison, the first exponent of the Virginia School of States' Rights.

<sup>1</sup> “Just at what time Calhoun changed from a protectionist to a free trader, from a liberal to a conservative, from a liberal constructionist to a strict constructionist, from a progressionist to an obstructionist, has been difficult to determine. One thing is clear: his change followed that of the majority of the people of the State; and whatever pressure there was, was exerted by the State on him, and not by him on the State.” (“A Critical Study of Nullification in South Carolina,” David Franklin Houston: *Harvard Historical Studies*, pp. 60, 82.)

When time was ripe, however, and he had directed that “more diligent and careful scrutiny” into the provisions of the Constitution necessary “in order to ascertain fully the nature and character of our political system,” Mr. Calhoun found himself compelled to a dispensation, — a dispensation new to him, to the country very old. He thus formulated it: — “The great and leading principle is, that the

the same time going on in New England. As a result of the two scrutinies, Chang and Eng both changed sides. Before, Chang's side of the shield was gold, while that of Eng was silver; now, Chang saw quite clearly that it was silver after all, while Eng recognized it as burnished gold of the purest stamp. Both were honest, and both fully convinced. Both also were right; the simple truth — the truth of Holy Writ — being that no man can serve two masters, and two masters the fundamental law prescribed. The inevitable ensued.

But what was the inevitable? That again, as I read the story of our development, was purely a matter of circumstance and time. Fate — the Greek Necessity — intervened in those lists, and decided the issue of battle. To my mind, the record is from its commencement absolutely clear on this one point, — after all, the one vital point, for it differentiates. On the one side is revolution, on the other a dissolution of partnership. After the 25th of July, 1788, when the last of the nine States necessary to the adoption of the Federal Constitution acted favorably thereon, a withdrawal from the Union, all theories to the contrary notwithstanding, became practically an issue of general government emanated from the people of the several States, forming distinct political communities, and acting in their separate and sovereign capacity, and not from all of the people forming one aggregate political community; that the Constitution of the United States is, in fact, a compact, to which each State is a party, in the character already described; and that the several States, or parties, have a right to judge of its infractions; and in case of a deliberate, palpable, and dangerous exercise of power not delegated, they have the right, in the last resort (to use the language of the Virginia Resolutions), 'to interpose for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights, and liberties appertaining to them.'



might. Into the abstract question of right I will not enter, — least of all here and now. But, conceding everything that may be asked on the point of abstract right, — looking only on imperfect and illogical man as he is, and as he acts in this world's occasions and exigencies, — I adhere on this point to my own belief. In 1790, Rhode Island was spared from being "coerced" into the Union only by a voluntary, though very reluctant, acceptance of it; and from that day to 1861, any attempted withdrawal from the Union would, after long argument over the question of right, have ultimately resolved itself into an issue of might.

Again the elements of the Greek drama confront us — the Fates, Necessity. What at different epochs would have been the probable outcome of any attempt at withdrawal? That ever, at any period of our history since 1790, a single State — no matter how sovereign, even Virginia — could alone have made good, peaceably or otherwise, a withdrawal in face of her unitedly disapproving sister States, I do not believe. Naturally, or as a result of force applied, the attempt would have resulted in ignominious failure. But how would it have been at any given time with a combination of States, acting in sympathy, — a combination proportionately as considerable when measured with the whole as was the Confederacy in 1861? I hold that here again it was merely a question of time, and that such a withdrawal as then took place would never have failed of success at any anterior period in our national history. It was steam and electricity which then settled the issue of sovereignty; not argument, not military skill, not wealth, courage, or endurance; not even men in arms. Before 1861 steam and elec-

tricity, neither on land nor water, had been rendered so subservient to man as to make him equal to the prodigious, the unprecedented, task then undertaken, and finally accomplished. In that case, might in the end made right; but the end was in no degree a foregone conclusion.

In my own family records I find a curious bit of contemporary evidence of this, and of the line of thought and reasoning then resulting therefrom. Following the foresight of Madison, J. Q. Adams, noting the set of the currents in 1820, became instinctively persuaded that the North and the South would be swept into collision by the forces of inherent development. Again and again did he put this belief of his on record.<sup>1</sup> Contemplating such an eventuality, he, in 1839, thus expressed himself in a public utterance, in words which I have of late more than once seen quoted in support of the abstract constitutional right of secession. Speaking in New York on what was called the jubilee of the Constitution, or the fiftieth anniversary of its adoption, he said: — “If the day should ever come (may Heaven avert it!) when the affections of the people of these States shall be alienated from each other, when the fraternal spirit shall give way to cold indifference, or collisions of interest shall fester into hatred, the bands of political association will not long hold together parties no longer attracted by the magnetism of conciliated interests and kindly sympa-

<sup>1</sup> See the paper entitled “John Quincy Adams and Martial Law,” *Proceedings of the Massachusetts Historical Society*, Second Series, vol. xv. pp. 436-478. Separately printed as *John Quincy Adams, His Connection with the Monroe Doctrine* (1823) and with *Emancipation under Martial Law* (1819-1842), by Worthington Chauncey Ford and Charles Francis Adams.

thies ; and far better will it be for the people of the disunited States to part in friendship from each other than to be held together by constraint. Then will be the time for reverting to the precedents which occurred at the formation and adoption of the Constitution, to form again a more perfect union by dissolving that which could no longer bind, and to leave the separated parts to be reunited by the law of political gravitation to the centre.”<sup>1</sup>

In other words, forecasting strife, and measuring the coercive force available at a time when steam on land and water was in its stages of earlier development, J. Q. Adams regarded the attempt at an assertion of national sovereignty as so futile that, though he most potently and powerfully believed in that sovereignty, he looked upon its exercise as quixotic, and consequently not to be justified. A dissolution of the Union, at least temporarily, he believed to be inevitable. So strongly was he convinced of the power of the disintegrating influence as contrasted with the cohesive force, that the late Robert C. Winthrop, then a young man of twenty-seven, writing in 1836, described him as saying, in the course of dinner-table talk, that “he despaired of the Union, believing we are destined soon to overrun not merely Texas, but Mexico, and that the inevitable result will be a break-up into two, three, four, or more confederacies.” “Inevitable!” The unexpected alone is inevitable. These two utterances were, the one in 1836, the other in 1839. In 1839 there were not five hundred miles of constructed railroad in the United States ; steam had not been applied to naval construction ; electricity was

<sup>1</sup> J. Q. Adams : *Jubilee of the Constitution* (April 30, 1839), p. 69.

a toy. So far as he could look into the future, Mr. Adams was right; only — the unexpected was to occur! It did occur; and it settled the question. In 1788, the preponderance of popular feeling and affection was wholly in the scale of State Sovereignty as opposed to Nationality; in 1800, the Union was, in all probability, saved by being taken from the hands of its friends, and, so to speak, put out to nurse with its enemies, who from that time were converted to unity; in 1815, the final war of independence gave a great impetus to Nationality, and the scales hung even; in 1831, the irrepressible conflict began to assert itself, and now they inclined slightly but distinctly to Nationality, the younger of the two sovereigns asserting a supremacy; between 1831 and 1861, science threw steam and electricity into his scale, and, in 1865, they made the other kick the beam. But, when all is said, merely a fresh illustration had been furnished of the truth of that scriptural adage in regard to a divided service.

Such are the conclusions reached from a renewed and somewhat careful review of a record frequently scanned by others. They found in it the outcome of great orations, labored arguments, and the teaching of individuals. I cannot so see it. It is, as I read it, one long majestic Greek tragedy.

“ Like to the Pontic sea,  
Whose icy current and compulsive course  
Ne'er feels retiring ebb, but keeps due on  
To the Propontic and the Hellespont,” —

so that great drama swept on to its inevitable catastrophe, — Fate and Necessity ever the refrain of its chorus, — until, at the end, the resounding clash of arms.

For better, for worse, a new era then opened. In what I have this evening said I have dealt with a past in which, as I see it, the forces of nature — “the unseen hand at the game” — decided the issues involved. But there are times also when men have their turn, both asserting and establishing their superiority over fate, — shaping destiny to their desires, — triumphing amid the slings and arrows of outrageous fortune. In closing, were I to look for such a spectacle, I fancy it would not be in vain, nor would my search be far or long. I should find it here in the South, and not least in Charleston, in a manly adaptation to unsought-for conditions, in the resiliency of a vigorous race casting calamity lightly aside, — “a dew-drop from the lion’s mane.” To what extent the issues of the past are by-gone, my being here this night, and discussing them in this presence, bear conclusive evidence. And indeed, coming from Massachusetts to South Carolina, it glads my heart here to see, if I may in closing use the great language of Milton, “a noble and puissant nation rousing herself like a strong man after sleep, and shaking her invincible locks; an eagle mewing her mighty youth, and kindling her undazzled eyes at the full midday beam.”

## “WAR IS HELL”<sup>1</sup>

MR. COMMANDER, Officers, and Members of the Confederate Veterans' Camp of New York:—

A New Englander; by birth, descent, tradition, name and environment closely associated with Massachusetts; I was a Union soldier from 1861 to 1865, and the one boast I make in life was and is, and will ever be, that I also bore arms and confronted the Confederacy, and helped to destroy it. Formerly of the Army of the Potomac, through long years I was intent on the overthrow of the Army of Northern Virginia. So far, moreover, as that great past is concerned, having nothing to regret, to excuse, or to extenuate, I am yet here on this day to respond to a sentiment in honor of the military leader once opposed to us, a Virginian and a Confederate. Nor, all this being thus and so, if asked why I am here, would the answer be far to seek. Primarily, as a Massachusetts man I confess to a feeling of special kindness toward two other States of the Union, two of the original thirteen above all the other present forty and five, South Carolina and Virginia. Those, with Massachusetts, I hold to have been, essentially, pivotal States. Communities

<sup>1</sup> Speech delivered at the thirteenth annual dinner of the Confederate Veterans' Camp of New York, in response to a sentiment in honor of General Robert E. Lee. The birthday of General Lee was January 19. In 1903 it was observed in New York on the 26th of the month, in the large banqueting-hall of the Waldorf-Astoria Hotel. Some six hundred persons were present at the tables or in the boxes.

peculiarly prolific of men the exponent of ideas, from them have gone forth those migrating columns which met in fierce grapple for the maintenance and the ascendancy of that in which they believed.

So, if I may be permitted first to say a word personal to myself, when the other day, scarcely a month ago, I was called on to speak in Charleston to an audience of South Carolinians, I responded at once; and I did so because my heart went out to them as those of my countrymen to whom I had once been most bitterly opposed; countrymen still, though I had come to know that, as foemen, they were men of whom it behooved us most to take heed. As exponents of ideas, right and wrong, Massachusetts and South Carolina were peers. They had not followed; they had led. And so, as I told them, fully conscious that I was walking on ashes still hot in the very crater of what had within all our memories been the most terrific volcano of a century, walking there amid sulphurous memories, I chose for my theme the constitutional ethics of secession. In a wholly dispassionate spirit, I addressed myself to it as a purely academic question; but I wanted to know whether the time had indeed come when the old friendly feeling was restored, and the foes of a former generation could again talk together calmly and as brethren over issues once burning. The reception of what I said justified my faith in those to whom I said it. Never have I met with more cordial welcome, — never did I receive a more fraternal response.

Next came the Confederate Veterans of New York; they called, and I am here. At this banquet, your annual commemoration of Robert E. Lee, I am asked

to respond to a sentiment in his honor, and, without reservation, I do so ; for, as a Massachusetts man, I see in him exemplified those lofty elements of personal character which, typifying Virginia at her highest, made Washington possible. The possession of such qualities by an opponent cannot but cause a thrill of satisfaction from the sense that we also, as foes no less than as countrymen, were worthy of him, and of those whom he typified. It was a great company, that old, original thirteen ; and in the front rank of that company Virginia, Massachusetts, and South Carolina stood conspicuous. So I recognize a peculiar fellowship between them, — the fellowship of those who have both contended shoulder to shoulder, and fought face to face.

This, however, is of the past. Its issues are settled, never to be raised again. But, no matter how much we may discuss the rights and the wrongs of a day that is dead, — its victories and defeats, — one thing is clear beyond dispute : victor and vanquished, Confederate and Unionist, the descendants of those who, between 1861 and 1865, wore the gray and of those who wore the blue, enter as essential and as equal factors into the national life which now is, and in future is to be. Not more so Puritan and Cavalier in England, the offspring of Cromwell and the children's children of Strafford. With us, as with them, the individual exponents of either side became in time common property, and equally the glory of all.

So I am here this evening, as I have said, a Massachusetts man as well as a member of the Loyal Legion, to do honor to the memory of him who was chief among those once set in array against us. Of him, what shall



I say? Essentially a soldier, as a soldier Robert E. Lee was a many-sided man. I might speak of him as a strategist; but of this aspect of the man, enough has perhaps been said. I might refer to the respect, the confidence and love with which he inspired those under his command. I might dilate on his restraint in victory; his resource and patient endurance in the face of adverse fortune; the serene dignity with which he, in the end, triumphed over defeat. But, passing over all these well-worn themes, I shall confine myself to that one attribute of his which, recognized in a soldier by an opponent, I cannot but regard as his surest and loftiest title to enduring fame. I refer to his humanity in arms, and his scrupulous regard for the most advanced rules of civilized warfare.

On this point, two views, I am well aware, have been taken from the beginning, and still are advocated. On the one side, it is contended that warfare should be strictly confined to combatants, and its horrors and devastations brought within the narrowest limits; that private property should be respected, and devastation and violence limited to that necessary to overcome armed opposition at the vital points of conflict. This, by some. But, on the other hand, it is insisted that such a method of procedure is mere cruelty in disguise; that war at best is Hell, and that true humanity lies in exaggerating that Hell to such an extent as to make it unendurable. By so doing, it is forced to a speedy end. On this issue, I stand with Lee. Moreover, looking back over the awful past, replete with man's inhumanity to man, I insist that the verdict of history is distinct. That war is Hell at best, then make it Hell indeed, — that cry is not original with us: far

from it; it echoes down the ages. Take Europe, for example. Let me cite two instances, separated by half a century, and two names which have come down to us loaded with execration and sunken deep in infamy: the instances, the repeated and complete devastation of what was known as the Palatinate, once during the war of Thirty Years and again under the orders of Louis Fourteenth;—the names, Tilly and M<sup>é</sup>lac.

You have heard of Tilly, and of the sack of Magdeburg. Tilly fully believed in making war Hell,—fast, furious and bloody. His orders were to kill and burn, burn and kill; and burn and kill again. He wanted no prisoners, and none were made. The more his subordinates killed and the more they burned, the better he was pleased. Before Tilly bathed in blood and rapine at Magdeburg, he tried his comparatively 'prentice hand elsewhere. He wished the Palatinate to be made a howling wilderness. It is a familiar story, a lamentation and an ancient tale of wrong; and you remember its outcome. Even to-day, as we read the story of those horrors centuries gone, we thrill with vindictive pleasure when the humane Gustavus Adolphus sprang into the arena, and bore down Hell's advocate in hopeless defeat and irrevocable death.

Again, fifty years later, the same gospel of Hell is proclaimed and enforced. Once more the Palatinate is devastated by sword and fire. War is Hell, then make it Hell indeed; and have it over! They did make it Hell; but was it over? Was it shortened even? A French general, M<sup>é</sup>lac by name, acting under the inspiration of Louis the Fourteenth, repeated Tilly's work; he could not improve upon it. He, also, believed that to carry on war, disguise it as we may,

is to be cruel. It is to kill and burn, burn and kill; and again kill and burn. The "Great Monarch" desired him, also, so to bear himself as to leave on the inhabitants of the Palatinate an impression that future generations would know he had been there. He did so bear himself.

What was the result? Hell was indeed let loose; but so was Hate. Was the war made shorter? No! Not by an hour! It was simply made needlessly bitter, brutal and barbarous. To this day the ruins of Heidelberg remain M<sup>é</sup>lac's monument. Remembered to be cursed, pilloried with Tilly, his name in what was once the Palatinate is still a household word. Six generations of men have since passed, and, to-day, with those of the seventh, M<sup>é</sup>lac is a name there given to dogs. Many of you have doubtless stood, as have I, on the still shattered and crumbling battlements of Heidelberg, looking out over the peaceful valley of the Necker, and listening to its murmuring flow. Thirty years ago I was there, and I vividly recall a little incident strikingly illustrative of the exact opposite of what I am here to-day to say of Lee. A portrait of M<sup>é</sup>lac hung in the gallery of the castle. It hangs there still. I saw it again a year or two ago; but when I saw it first, in 1872, it bore an inscription, — an inscription eloquent of hate. M<sup>é</sup>lac had, in March, 1689, blown up the castle, burned the town, and devastated the surrounding country, — given future generations to know he had been there. A Frenchman, he made war Hell to the German. Nearly two centuries later the turn of Germany came. Then, in 1870, devastating France, they inflicted on the French, the misery and shame of Sedan, — they besieged and

captured Paris. Two years afterwards, in 1872, I read this inscription in letters large and black beneath the portrait of Mélac at Heidelberg — "1689. VERGOLTEN. 1871." They had indeed been given cause to remember; nor had they forgotten. The debt, two centuries old, had been computed with interest; and payment exacted in blood and flame.

As an American, as an ex-soldier of the Union, as one who did his best in honest, even fight, to destroy that fragment of the army of the Confederacy to which he found himself opposed, I rejoice that no such hatred attaches to the name of Lee. Reckless of life to attain the legitimate ends of war, he sought to mitigate its horrors. Opposed to him at Gettysburg, I here, forty years later, do him justice. No more creditable order ever issued from a commanding general than that formulated and signed at Chambersburg by Robert E. Lee as, towards the close of June, 1863, he advanced on a war of invasion. "No greater disgrace," he then declared, can "befall the army and through it our whole people, than the perpetration of barbarous outrages upon the innocent and defenceless. Such proceedings not only disgrace the perpetrators and all connected with them, but are subversive of the discipline and efficiency of the army, and destructive of the ends of our movement. It must be remembered that we make war only on armed men." Lee did not, like Tilly and Mélac, exhort his followers to kill and burn, and burn and kill; and again kill and burn: to make war Hell. He did not proclaim that he wanted no prisoners. He did not enjoin it upon his soldiers as a duty to cause the people of Pennsylvania to remember they had been

there. I thank Heaven he did not. He at least, though a Confederate in arms, was still an American, and not a Tilly nor a Mélac.

And here, as a soldier of the Army of the Potomac, let me bear my testimony to such of the Army of Northern Virginia as may now be present. While war at best is bad, yet its necessary and unavoidable badness was not in that campaign enhanced. In scope and spirit Lee's order was observed, and I doubt if a hostile force ever advanced into an enemy's country, or fell back from it in retreat, leaving behind less cause of hate and bitterness than did the Army of Northern Virginia in that memorable campaign which culminated at Gettysburg. Because he was a soldier, Lee did not feel it incumbent upon him to proclaim himself a brute, or to exhort his followers to brutality.

I have paid my tribute. One word more and I have done. Some six months ago, in a certain academic address at Chicago, I called to mind the fact that a statue of Oliver Cromwell now stood in the yard of Parliament House in London, close to that historic hall of Westminster from the roof of which his severed head had once looked down. Calling to mind the strange changes of feeling evinced by the memory of that grinning skull and the presence of that image of bronze, remembering that Cromwell, once traitor and regicide, stood now conspicuous among England's worthiest and most honored, I asked why should it not also in time be so with Lee? Why should not his effigy, erect on his charger, and wearing the insignia of his Confederate rank, gaze from his pedestal across the Potomac at the Virginia shore, and his once dearly loved home at Arlington? He,

too, is one of the precious possessions of what is an essential factor in the nation that now is, and is to be.

My suggestion was met with an answer to which I would now make reply. It was objected that such a memorial was to be provided for from the national treasury, and that Lee, educated at West Point, holding for years the commission of the United States, had borne arms against the nation. The rest I will not here repeat. The thing was pronounced impossible.

Now let me here explain myself. I never supposed that Robert E. Lee's statue in Washington would be provided for by an appropriation from the national treasury. I did not wish it. I do not think it fitting. Indeed, I do not rate high statues erected by act of Congress, and paid for by public money. They have small significance. Least of all would I suggest such a one in the case of Lee. Nor was it so with Cromwell. His effigy is a private gift, placed where it is by Parliament. So, when the time is ripe, should it be with Lee, — and the time will come. When it does come, the effigy, assigned to its place merely by an act of the Congress of a reunited people, should bear some such inscription as this:—

ROBERT EDWARD LEE.

Erected by the contributions

Of those who,

wearing the Blue, or wearing the Gray,  
recognize Brilliant Military Achievements,  
and honor Lofty Character

evinced by

Humanity in War

and by

Devotion and Dignity in Defeat.



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